

1 AN ACT in relation to workplace injuries and diseases.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Workers' Compensation Act is amended by
5 changing Sections 8, 16, and 16a and adding Section 8a as
6 follows:

7 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

8 Sec. 8. The amount of compensation which shall be paid
9 to the employee for an accidental injury not resulting in
10 death is set forth in this Section.‡

11 (a) The employer shall provide and pay the lesser of the
12 health care provider's actual charges or the usual and
13 customary charges incurred for all the necessary first aid,
14 medical and surgical services, and all necessary medical,
15 surgical and hospital services thereafter incurred, limited,
16 however, to that which is reasonably required to cure or
17 relieve from the effects of the accidental injury. The usual
18 and customary charges under this Act shall be those
19 established pursuant to paragraphs (5) and (6) of this
20 subsection (a). Charges for procedures or services related to
21 a claim under this Act shall not exceed charges to other
22 non-workers' compensation third party payors for those
23 procedures or services, exclusive of charges pursuant to
24 negotiation, contract, or federal or State laws or
25 regulations. The employer shall also pay for treatment,
26 instruction and training necessary for the physical, mental
27 and vocational rehabilitation of the employee, including all
28 maintenance costs and expenses incidental thereto. If as a
29 result of the injury the employee is unable to be
30 self-sufficient the employer shall further pay for such
31 maintenance or institutional care as shall be required.

1 Nothing in this Section shall preclude employers and health
2 care providers from agreeing to and utilizing alternative
3 reimbursement methods or schedules agreeable to both,
4 provided that any alternative reimbursement method shall be
5 set forth in a written contract or other written agreement
6 signed by the parties.

7 (1) The employee may at any time elect to secure
8 his own physician, surgeon and hospital services at the
9 employer's expense, or,

10 (2) Upon agreement between the employer and the
11 employees, or the employees' exclusive representative,
12 and subject to the approval of the Industrial Commission,
13 the employer shall maintain a list of physicians, to be
14 known as a Panel of Physicians, who are accessible to the
15 employees. The employer shall post this list in a place
16 or places easily accessible to his employees. The
17 employee shall have the right to make an alternative
18 choice of physician from such Panel if he is not
19 satisfied with the physician first selected. If, due to
20 the nature of the injury or its occurrence away from the
21 employer's place of business, the employee is unable to
22 make a selection from the Panel, the selection process
23 from the Panel shall not apply. The physician selected
24 from the Panel may arrange for any consultation, referral
25 or other specialized medical services outside the Panel
26 at the employer's expense. Provided that, in the event
27 the Commission shall find that a doctor selected by the
28 employee is rendering improper or inadequate care, the
29 Commission may order the employee to select another
30 doctor certified or qualified in the medical field for
31 which treatment is required. If the employee refuses to
32 make such change the Commission may relieve the employer
33 of his obligation to pay the doctor's charges from the
34 date of refusal to the date of compliance.

1 (3) The Commission shall establish rules for
2 processing payments to health care providers in an
3 expeditious and timely manner including designating the
4 proper payor to be billed for health care benefits
5 related to a claim.

6 Health care providers may seek payment from
7 employees until the health care provider is notified in
8 writing, on a uniform form adopted by rule by the
9 Industrial Commission, by the employer or the employee
10 that the services concern a claim under the Act. This
11 notification shall specifically identify the party to
12 whom bills for services must be submitted. The health
13 care provider must then within 60 days resubmit
14 previously submitted bills and then subsequent bills for
15 services exclusively to the party to which bills for
16 services must be submitted. Nothing in this Act shall
17 prevent health care providers from notifying employees of
18 the bills for services consistent with the limitations of
19 this Section.

20 (A) Nondisputed health care payments:

21 (i) The employer shall make payments or
22 cause payments to be made to health care
23 providers within 30 days after the receipt by
24 the employer of due proof of loss. For the
25 purpose of this Section, "due proof of loss"
26 consists of a receipt of an itemized bill with
27 a demand for payment and a complete copy of the
28 patient records related to the claim and those
29 charges. The employer shall notify the health
30 care provider of any failure to provide
31 sufficient documentation for a due proof of
32 loss within 30 days after receipt of the claim
33 for health services. If requested by the
34 employer, subsequent billings shall provide

1 updated patient records from the date last
2 provided.

3 (ii) If the employer fails, neglects, or
4 refuses, without good and just cause, to pay
5 the health care provider charges within 30
6 days, the employer shall pay interest on the
7 unpaid balance of fees at a rate of 7%. The
8 interest shall begin to accrue on the 31st day
9 following receipt of due proof of loss and
10 shall stop accruing on the day before tender of
11 payment for the amount paid. The employer shall
12 pay any required interest charges within 30
13 days of payment of other health care provider
14 charges.

15 (B) Disputed health care payments.

16 (i) Any disputes concerning an employer's
17 neglect, failure or refusal to pay the usual
18 and customary charges of health care providers
19 services under subsection 8(a) shall be
20 resolved in a separate proceeding between the
21 employer and the health care provider. This
22 separate proceeding may take place concurrently
23 with any proceeding concerning a claim for
24 benefits under this Act. The arbitrator may
25 bifurcate any proceeding, but resolution of a
26 payment dispute shall not be decided prior to a
27 determination of the compensability of the
28 claim. The employer shall provide the health
29 care provider and the employee with written
30 notice of the specific reasons for non-payment
31 or payment of less than submitted charges
32 within 60 days of receipt of due proof of loss.
33 Any dispute shall be resolved in accordance
34 with the rules which shall include, but not be

1 limited to, the employers obligation to provide
2 a written notice and the health care providers
3 obligation to provide a written explanation of
4 a billing and an affidavit concerning the
5 health care providers charges to other
6 non-workers' compensation third party
7 non-governmental payors. The employee shall
8 have a duty to cooperate in any process or
9 proceeding. The provider of any services,
10 treatment, care, instruction, training, or
11 appliances or other tangible things for which
12 an employer is responsible for payment under
13 this subsection (a) is bound by charges or
14 payments ordered by the Industrial Commission.

15 (ii) In addition to any remedies
16 available to an employee under the Act, if the
17 Commission finds that an employer has
18 neglected, failed or refused to pay or cause to
19 be paid the usual and customary charges by a
20 health care provider, under subsection 8(a)
21 without good and just cause, the employer shall
22 pay interest pursuant to subsection (3)(A)(ii)
23 and the provider's attorneys fees and other
24 costs related to the proceeding before the
25 Commission under this Section.

26 (iii) The Commission shall adopt
27 procedural rules for these proceedings which
28 are consistent with current practices under the
29 Act and provide for minimal delay or
30 inconvenience.

31 (C) The employee and any health care providers
32 may, but are not required to, be represented by the
33 same attorney.

34 (D) Any fees for undisputed health care

1 provider services shall be paid directly to the
2 health care provider. The employee shall not receive
3 payments owed to health care providers. In the case
4 of an award or settlement, in whole or in part, for
5 disputed health care provider payments, payment may
6 be made to the health care provider or in cases in
7 which the health care provider is represented by an
8 attorney, the payments shall be made to the attorney
9 involved in the name of the attorney and health care
10 providers. The attorney shall disburse the funds to
11 the health care providers involved in accordance
12 with the award or settlement.

13 (E) In addition to compensation for health
14 care services, health care providers shall be
15 separately reimbursed by the requesting party for
16 requested records, reports, letters, testimony, or
17 depositions for all reasonable expenses incurred in
18 connection with provision of this information
19 pursuant to Section 16.

20 (F) Health care provider service payments may
21 only be denied by the employer upon a finding that:

22 (1) the service or procedure was not
23 related to an accidental injury; or

24 (2) the service or procedure was not
25 necessary or reasonably required to cure or
26 provide relief from the effects of the
27 accidental injury.

28 A finding that a health care service was not
29 necessary or reasonably required to cure or provide
30 relief from the effects of the accidental injury shall be
31 based on clinical criteria which are:

32 (1) developed with the input from
33 appropriate actively practicing physicians; and

34 (2) based on sound clinical principles

1 and processes.

2 Any such finding shall be accompanied by the
3 clinical criteria used as the basis for such finding.

4 (4) Every hospital, physician, surgeon or other
5 person rendering treatment or services in accordance with
6 the provisions of this Section shall upon written request
7 furnish full and complete reports thereof to, and permit
8 their records to be copied by, the employer, the employee
9 or his dependents, as the case may be, or any other party
10 to any proceeding for compensation before the Commission,
11 or their attorneys.

12 (5) Charges of health care providers shall be
13 compensated at actual charges not to exceed the 85th
14 percentile of the usual and customary charges as
15 determined by this Section.

16 The Industrial Commission shall determine the usual
17 and customary charges of health care providers, except
18 hospital charges under paragraph (6), in each geographic
19 area of the State by adopting rules designating a
20 national database that includes health care provider
21 charges, except hospital charges, information from
22 Illinois with a minimum of 12,000,000 Illinois line item
23 charges, excluding charges which are discounted by
24 contract, law, or regulation, and which makes these
25 charges available by geozip or any smaller geographic
26 unit in Illinois. The usual and customary charges shall
27 be as current as possible with no charge data being older
28 than 24 months and shall be updated at least every 6
29 months. The data shall in no way identify or tend to
30 identify any patient, employer, or health care provider.
31 Usual and customary charge determinations shall be
32 available electronically to the Industrial Commission
33 every 6 months, and beginning July 1, 2004.

34 As used in this Section, "geozip" means a group of

1 one or more three-digit zip codes based on data
2 similarities, geographical similarities, and frequencies.
3 A "geozip" does not cross state boundaries. As used in
4 this Section, "three-digit zip code" means a geographic
5 area in which all zip codes have the same first 3 digits.

6 Except as otherwise provided in this Section 8a, no
7 action shall be commenced or maintained in a court of
8 this State by or on behalf of the above mentioned health
9 care providers nor shall those health care providers
10 pursue the payment of a bill individually or through a
11 collection agency or credit reporting bureau against an
12 employee for the collection of charges for services
13 incurred for a claim covered or alleged to be covered
14 under this Act until resolution by the Industrial
15 Commission. Health care providers may bill an employee
16 when a claim is not found to be covered under the Act.

17 (6) On or after October 1, 2003, the Industrial
18 Commission shall determine the usual and customary
19 payments for Illinois hospitals within three-digit zip
20 code areas by adopting rules designating a database or
21 databases and establishing the usual and customary
22 payments pursuant to this paragraph (6).

23 The database or databases used to establish hospital
24 usual and customary payments shall include Illinois
25 hospital inpatient charge data reflecting total
26 discharges within the State and Illinois hospital
27 outpatient charge data with a minimum of 12,000,000
28 records. The database or databases shall exclude data
29 from tertiary teaching hospitals, rehabilitation
30 hospitals, psychiatric hospitals, and trauma centers. The
31 data shall exclude charges which are discounted by
32 contract, law, or regulation, and shall be available by
33 three-digit zip code areas. The data shall reflect
34 hospital line item charges. As used in this paragraph

1 (6), "line item charge" means the charge for each revenue
2 code submitted by hospitals on the uniform hospital
3 billing form required by Section 4-2 of the Illinois
4 Health Finance Reform Act. The data shall in no way
5 identify or tend to identify any patient, employer,
6 health care provider, or hospital facility. Hospital
7 charge data shall be as current as possible, with no
8 charge data being older than 24 months, and shall be
9 updated every 6 months.

10 The usual and customary payment for hospital
11 procedures, treatments, or services shall be established
12 for each line item charge at the 85th percentile of
13 charges for hospitals within the same three-digit zip
14 code area. The charge data for inpatient and outpatient
15 services shall be grouped or referenced by line item
16 charges or, where appropriate and available, by CPT code.
17 For inpatient services, line item charges shall be
18 determined per patient day, as appropriate. Nothing
19 herein shall prohibit the payment of outpatient services
20 by CPT code. Usual and customary payment determinations
21 for hospital inpatient and outpatient services shall be
22 published electronically by the Industrial Commission
23 every 6 months starting July 1, 2004. The usual and
24 customary payment limitations under this Act shall not
25 apply to hospitals located in three-digit zip code areas
26 that contain fewer than 20 hospitals. Nothing in this Act
27 shall prohibit a hospital and employer or insurer from
28 negotiating and agreeing on a level of payment for
29 individual bills or charges that differs from the usual
30 and customary payment established under this Act,
31 provided that such agreement is documented in writing,
32 electronically, or by another mutually agreed method.

33 Hospitals designated by the Department of Public
34 Health as tertiary teaching hospitals, rehabilitation

1 hospitals, psychiatric hospitals, or trauma centers shall
2 not be subject to the usual and customary payment
3 limitations under this Act; provided, however, that
4 charges for procedures or services related to a claim
5 under this Act rendered by such hospitals shall not
6 exceed their charges to non-workers' compensation third
7 party payors for those procedures or services. Charges of
8 tertiary teaching hospitals, rehabilitation hospitals,
9 psychiatric hospitals, and trauma centers shall not be
10 included in the database or databases designated by the
11 Industrial Commission. Any hospital no longer designated
12 a tertiary teaching hospital, rehabilitation hospital,
13 psychiatric hospital, or a trauma center by the Illinois
14 Department of Public Health shall be subject to the usual
15 and customary payment provisions under this Act within 30
16 days of receipt of notice of change of designation from
17 the Department of Public Health.

18 All hospitals, including tertiary teaching
19 hospitals, rehabilitation hospitals, psychiatric
20 hospitals, or trauma centers, shall be fully subject to
21 the provisions of paragraph 8(a)(3)(F).

22 Except as otherwise provided in this subsection
23 8(a), no action shall be commenced or maintained in a
24 court of this State by or on behalf of a hospital nor
25 shall a hospital pursue the payment of a bill
26 individually or through a collection agency or credit
27 reporting bureau against an employee for the collection
28 of charges for services incurred for a claim covered or
29 alleged to be covered under this Act until resolution by
30 the Industrial Commission. Hospitals may bill an employee
31 when a claim is not found to be covered under the Act.

32 (7)(i) No list of usual and customary charges of
33 health care providers pursuant to paragraph (5) or of
34 hospitals pursuant to paragraph (6), and no update of

1 such a list, shall be established except by rule of the
2 Commission. Before any rule establishing usual and
3 customary charges becomes final, the Commission shall:

4 (a) Comply with all public notice and comment
5 requirements set forth in the Illinois
6 Administrative Procedure Act;

7 (b) Allow members of the public to review the
8 actual, underlying database upon which the list of
9 usual and customary charges in the proposed rule is
10 derived;

11 (c) Verify the validity, accuracy, and
12 timeliness of all usual and customary charges in the
13 proposed rule, and make available to the public
14 written explanation of why the charges are valid,
15 accurate, and timely.

16 For purposes of this paragraph, a "valid" usual and
17 customary charge is a charge that takes into
18 consideration only appropriate sources of data, and that
19 complies with the criteria for usual and customary
20 charges for health care providers as set forth in
21 paragraph (5) or for hospitals as set forth in paragraph
22 (6) with respect to minimum numbers of line items,
23 geographical sources and coverage, exclusions and
24 exemptions, and confidentiality. An "accurate" usual
25 and customary charge is a charge for which the compiled
26 data have been correctly interpreted in determining the
27 level of the charge. A "timely" usual and customary
28 charge is a charge that is as current as possible, with
29 no charge data being older than 24 months, and for which
30 6 or fewer months have elapsed since the latest update of
31 data.

32 (ii) The requirements of this paragraph (7) shall
33 apply to all determinations of usual and customary
34 charges established by rule of the Commission as well as

1 to all updates of those determinations.

2 (iii) The Commission shall update usual and
3 customary charges at least every 6 months by emergency
4 rule.

5 (iv) The provisions of paragraphs (5) and (6) shall
6 not take effect unless and until the Commission has
7 complied with all of the requirements of this paragraph
8 (7).

9 (8) The payment of health care provider charges is
10 not compensation to extend the time for filing a claim
11 under this Act. The payment of the health care provider
12 charges by an employer or the employer's insurance
13 carrier, shall not constitute an admission of the
14 employer's liability to payment compensation or create
15 any obligation to pay health care provider charges.

16 (9) Interest paid under this Section shall not be
17 an admission of liability to pay compensation or to pay
18 any health care provider charges.

19 (10) The Industrial Commission shall implement
20 these amendments in the following manner: The physician
21 and health care provider database under paragraph (5) and
22 the hospital, in-patient and out-patient database under
23 paragraph (6) and a precise methodology for use shall be
24 adopted by rule no later than October 1, 2003. The
25 database usual and customary determination shall then be
26 published electronically by the Industrial Commission
27 every 6 months beginning July 1, 2004. The provisions of
28 paragraphs (5) and (6) shall become effective 30 days
29 after the Commission establishes a database by rule
30 pursuant to the requirement of paragraph (7).

31 (a-5) Notwithstanding the foregoing, the employer's
32 liability to pay for such medical services selected by the
33 employee shall be limited to:

34 (1) all first aid and emergency treatment; plus

1 (2) all medical, surgical and hospital services
2 provided by the physician, surgeon or hospital initially
3 chosen by the employee or by any other physician,
4 consultant, expert, institution or other provider of
5 services recommended by said initial service provider or
6 any subsequent provider of medical services in the chain
7 of referrals from said initial service provider; plus

8 (3) all medical, surgical and hospital services
9 provided by any second physician, surgeon or hospital
10 subsequently chosen by the employee or by any other
11 physician, consultant, expert, institution or other
12 provider of services recommended by said second service
13 provider or any subsequent provider of medical services
14 in the chain of referrals from said second service
15 provider. Thereafter the employer shall select and pay
16 for all necessary medical, surgical and hospital
17 treatment and the employee may not select a provider of
18 medical services at the employer's expense unless the
19 employer agrees to such selection. At any time the
20 employee may obtain any medical treatment he desires at
21 his own expense. This paragraph shall not affect the duty
22 to pay for rehabilitation referred to above.

23 When an employer and employee so agree in writing,
24 nothing in this Act prevents an employee whose injury or
25 disability has been established under this Act, from relying
26 in good faith, on treatment by prayer or spiritual means
27 alone, in accordance with the tenets and practice of a
28 recognized church or religious denomination, by a duly
29 accredited practitioner thereof, and having nursing services
30 appropriate therewith, without suffering loss or diminution
31 of the compensation benefits under this Act. However, the
32 employee shall submit to all physical examinations required
33 by this Act. The cost of such treatment and nursing care
34 shall be paid by the employee unless the employer agrees to

1 make such payment.

2 Where the accidental injury results in the amputation of
3 an arm, hand, leg or foot, or the enucleation of an eye, or
4 the loss of any of the natural teeth, the employer shall
5 furnish an artificial of any such members lost or damaged in
6 accidental injury arising out of and in the course of
7 employment, and shall also furnish the necessary braces in
8 all proper and necessary cases. In cases of the loss of a
9 member or members by amputation, the employer shall, whenever
10 necessary, maintain in good repair, refit or replace the
11 artificial limbs during the lifetime of the employee. Where
12 the accidental injury accompanied by physical injury results
13 in damage to a denture, eye glasses or contact eye lenses, or
14 where the accidental injury results in damage to an
15 artificial member, the employer shall replace or repair such
16 denture, glasses, lenses, or artificial member.

17 The furnishing by the employer of any such services or
18 appliances is not an admission of liability on the part of
19 the employer to pay compensation.

20 The furnishing of any such services or appliances or the
21 servicing thereof by the employer is not the payment of
22 compensation.

23 (b) If the period of temporary total incapacity for work
24 lasts more than 3 working days, weekly compensation as
25 hereinafter provided shall be paid beginning on the 4th day
26 of such temporary total incapacity and continuing as long as
27 the total temporary incapacity lasts. In cases where the
28 temporary total incapacity for work continues for a period of
29 14 days or more from the day of the accident compensation
30 shall commence on the day after the accident.

31 1. The compensation rate for temporary total
32 incapacity under this paragraph (b) of this Section shall
33 be equal to 66 2/3% of the employee's average weekly wage
34 computed in accordance with Section 10, provided that it

1 shall be not less than the following amounts in the
2 following cases:

3 \$100.90 in case of a single person;

4 \$105.50 in case of a married person with no
5 children;

6 \$108.30 in case of one child;

7 \$113.40 in case of 2 children;

8 \$117.40 in case of 3 children;

9 \$124.30 in case of 4 or more children;

10 nor exceed the employee's average weekly wage computed in
11 accordance with the provisions of Section 10, whichever
12 is less.

13 2. The compensation rate in all cases other than
14 for temporary total disability under this paragraph (b),
15 and other than for serious and permanent disfigurement
16 under paragraph (c) and other than for permanent partial
17 disability under subparagraph (2) of paragraph (d) or
18 under paragraph (e), of this Section shall be equal to 66
19 2/3% of the employee's average weekly wage computed in
20 accordance with the provisions of Section 10, provided
21 that it shall be not less than the following amounts in
22 the following cases:

23 \$80.90 in case of a single person;

24 \$83.20 in case of a married person with no
25 children;

26 \$86.10 in case of one child;

27 \$88.90 in case of 2 children;

28 \$91.80 in case of 3 children;

29 \$96.90 in case of 4 or more children;

30 nor exceed the employee's average weekly wage computed in
31 accordance with the provisions of Section 10, whichever
32 is less.

33 2.1. The compensation rate in all cases of serious
34 and permanent disfigurement under paragraph (c) and of

1 permanent partial disability under subparagraph (2) of
2 paragraph (d) or under paragraph (e) of this Section
3 shall be equal to 60% of the employee's average weekly
4 wage computed in accordance with the provisions of
5 Section 10, provided that it shall be not less than the
6 following amounts in the following cases:

7 \$80.90 in case of a single person;

8 \$83.20 in case of a married person with no
9 children;

10 \$86.10 in case of one child;

11 \$88.90 in case of 2 children;

12 \$91.80 in case of 3 children;

13 \$96.90 in case of 4 or more children;

14 nor exceed the employee's average weekly wage computed in
15 accordance with the provisions of Section 10, whichever
16 is less.

17 3. As used in this Section the term "child" means a
18 child of the employee including any child legally adopted
19 before the accident or whom at the time of the accident
20 the employee was under legal obligation to support or to
21 whom the employee stood in loco parentis, and who at the
22 time of the accident was under 18 years of age and not
23 emancipated. The term "children" means the plural of
24 "child".

25 4. All weekly compensation rates provided under
26 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
27 Section shall be subject to the following limitations:

28 The maximum weekly compensation rate from July 1,
29 1975, except as hereinafter provided, shall be 100% of
30 the State's average weekly wage in covered industries
31 under the Unemployment Insurance Act, that being the wage
32 that most closely approximates the State's average weekly
33 wage.

34 The maximum weekly compensation rate, for the period

1 July 1, 1984, through June 30, 1987, except as
2 hereinafter provided, shall be \$293.61. Effective July 1,
3 1987 and on July 1 of each year thereafter the maximum
4 weekly compensation rate, except as hereinafter provided,
5 shall be determined as follows: if during the preceding
6 12 month period there shall have been an increase in the
7 State's average weekly wage in covered industries under
8 the Unemployment Insurance Act, the weekly compensation
9 rate shall be proportionately increased by the same
10 percentage as the percentage of increase in the State's
11 average weekly wage in covered industries under the
12 Unemployment Insurance Act during such period.

13 The maximum weekly compensation rate, for the period
14 January 1, 1981 through December 31, 1983, except as
15 hereinafter provided, shall be 100% of the State's
16 average weekly wage in covered industries under the
17 Unemployment Insurance Act in effect on January 1, 1981.
18 Effective January 1, 1984 and on January 1, of each year
19 thereafter the maximum weekly compensation rate, except
20 as hereinafter provided, shall be determined as follows:
21 if during the preceding 12 month period there shall have
22 been an increase in the State's average weekly wage in
23 covered industries under the Unemployment Insurance Act,
24 the weekly compensation rate shall be proportionately
25 increased by the same percentage as the percentage of
26 increase in the State's average weekly wage in covered
27 industries under the Unemployment Insurance Act during
28 such period.

29 From July 1, 1977 and thereafter such maximum weekly
30 compensation rate in death cases under Section 7, and
31 permanent total disability cases under paragraph (f) or
32 subparagraph 18 of paragraph (3) of this Section and for
33 temporary total disability under paragraph (b) of this
34 Section and for amputation of a member or enucleation of

1 an eye under paragraph (e) of this Section shall be
2 increased to 133-1/3% of the State's average weekly wage
3 in covered industries under the Unemployment Insurance
4 Act.

5 4.1. Any provision herein to the contrary
6 notwithstanding, the weekly compensation rate for
7 compensation payments under subparagraph 18 of paragraph
8 (e) of this Section and under paragraph (f) of this
9 Section and under paragraph (a) of Section 7, shall in no
10 event be less than 50% of the State's average weekly wage
11 in covered industries under the Unemployment Insurance
12 Act.

13 4.2. Any provision to the contrary notwithstanding,
14 the total compensation payable under Section 7 shall not
15 exceed the greater of \$250,000 or 20 years.

16 5. For the purpose of this Section this State's
17 average weekly wage in covered industries under the
18 Unemployment Insurance Act on July 1, 1975 is hereby
19 fixed at \$228.16 per week and the computation of
20 compensation rates shall be based on the aforesaid
21 average weekly wage until modified as hereinafter
22 provided.

23 6. The Department of Employment Security of the
24 State shall on or before the first day of December, 1977,
25 and on or before the first day of June, 1978, and on the
26 first day of each December and June of each year
27 thereafter, publish the State's average weekly wage in
28 covered industries under the Unemployment Insurance Act
29 and the Industrial Commission shall on the 15th day of
30 January, 1978 and on the 15th day of July, 1978 and on
31 the 15th day of each January and July of each year
32 thereafter, post and publish the State's average weekly
33 wage in covered industries under the Unemployment
34 Insurance Act as last determined and published by the

1 Department of Employment Security. The amount when so
2 posted and published shall be conclusive and shall be
3 applicable as the basis of computation of compensation
4 rates until the next posting and publication as
5 aforesaid.

6 7. The payment of compensation by an employer or
7 his insurance carrier to an injured employee shall not
8 constitute an admission of the employer's liability to
9 pay compensation.

10 (c) For any serious and permanent disfigurement to the
11 hand, head, face, neck, arm, leg below the knee or the chest
12 above the axillary line, the employee is entitled to
13 compensation for such disfigurement, the amount determined by
14 agreement at any time or by arbitration under this Act, at a
15 hearing not less than 6 months after the date of the
16 accidental injury, which amount shall not exceed 150 weeks at
17 the applicable rate provided in subparagraph 2.1 of paragraph
18 (b) of this Section.

19 No compensation is payable under this paragraph where
20 compensation is payable under paragraphs (d), (e) or (f) of
21 this Section.

22 A duly appointed member of a fire department in a city,
23 the population of which exceeds 200,000 according to the last
24 federal or State census, is eligible for compensation under
25 this paragraph only where such serious and permanent
26 disfigurement results from burns.

27 (d) 1. If, after the accidental injury has been
28 sustained, the employee as a result thereof becomes partially
29 incapacitated from pursuing his usual and customary line of
30 employment, he shall, except in cases compensated under the
31 specific schedule set forth in paragraph (e) of this Section,
32 receive compensation for the duration of his disability,
33 subject to the limitations as to maximum amounts fixed in
34 paragraph (b) of this Section, equal to 66-2/3% of the

1 difference between the average amount which he would be able
2 to earn in the full performance of his duties in the
3 occupation in which he was engaged at the time of the
4 accident and the average amount which he is earning or is
5 able to earn in some suitable employment or business after
6 the accident.

7 2. If, as a result of the accident, the employee
8 sustains serious and permanent injuries not covered by
9 paragraphs (c) and (e) of this Section or having sustained
10 injuries covered by the aforesaid paragraphs (c) and (e), he
11 shall have sustained in addition thereto other injuries which
12 injuries do not incapacitate him from pursuing the duties of
13 his employment but which would disable him from pursuing
14 other suitable occupations, or which have otherwise resulted
15 in physical impairment; or if such injuries partially
16 incapacitate him from pursuing the duties of his usual and
17 customary line of employment but do not result in an
18 impairment of earning capacity, or having resulted in an
19 impairment of earning capacity, the employee elects to waive
20 his right to recover under the foregoing subparagraph 1 of
21 paragraph (d) of this Section then in any of the foregoing
22 events, he shall receive in addition to compensation for
23 temporary total disability under paragraph (b) of this
24 Section, compensation at the rate provided in subparagraph
25 2.1 of paragraph (b) of this Section for that percentage of
26 500 weeks that the partial disability resulting from the
27 injuries covered by this paragraph bears to total disability.
28 If the employee shall have sustained a fracture of one or
29 more vertebra or fracture of the skull, the amount of
30 compensation allowed under this Section shall be not less
31 than 6 weeks for a fractured skull and 6 weeks for each
32 fractured vertebra, and in the event the employee shall have
33 sustained a fracture of any of the following facial bones:
34 nasal, lachrymal, vomer, zygoma, maxilla, palatine or

1 mandible, the amount of compensation allowed under this
2 Section shall be not less than 2 weeks for each such
3 fractured bone, and for a fracture of each transverse process
4 not less than 3 weeks. In the event such injuries shall
5 result in the loss of a kidney, spleen or lung, the amount of
6 compensation allowed under this Section shall be not less
7 than 10 weeks for each such organ. Compensation awarded
8 under this subparagraph 2 shall not take into consideration
9 injuries covered under paragraphs (c) and (e) of this Section
10 and the compensation provided in this paragraph shall not
11 affect the employee's right to compensation payable under
12 paragraphs (b), (c) and (e) of this Section for the
13 disabilities therein covered.

14 (e) For accidental injuries in the following schedule,
15 the employee shall receive compensation for the period of
16 temporary total incapacity for work resulting from such
17 accidental injury, under subparagraph 1 of paragraph (b) of
18 this Section, and shall receive in addition thereto
19 compensation for a further period for the specific loss
20 herein mentioned, but shall not receive any compensation
21 under any other provisions of this Act. The following
22 listed amounts apply to either the loss of or the permanent
23 and complete loss of use of the member specified, such
24 compensation for the length of time as follows:

- 25 1. Thumb-70 weeks.
- 26 2. First, or index finger-40 weeks.
- 27 3. Second, or middle finger-35 weeks.
- 28 4. Third, or ring finger-25 weeks.
- 29 5. Fourth, or little finger-20 weeks.
- 30 6. Great toe-35 weeks.
- 31 7. Each toe other than great toe-12 weeks.
- 32 8. The loss of the first or distal phalanx of the
33 thumb or of any finger or toe shall be considered to be
34 equal to the loss of one-half of such thumb, finger or

1 toe and the compensation payable shall be one-half of the
2 amount above specified. The loss of more than one
3 phalanx shall be considered as the loss of the entire
4 thumb, finger or toe. In no case shall the amount
5 received for more than one finger exceed the amount
6 provided in this schedule for the loss of a hand.

7 9. Hand-190 weeks. The loss of 2 or more digits,
8 or one or more phalanges of 2 or more digits, of a hand
9 may be compensated on the basis of partial loss of use of
10 a hand, provided, further, that the loss of 4 digits, or
11 the loss of use of 4 digits, in the same hand shall
12 constitute the complete loss of a hand.

13 10. Arm-235 weeks. Where an accidental injury
14 results in the amputation of an arm below the elbow, such
15 injury shall be compensated as a loss of an arm. Where
16 an accidental injury results in the amputation of an arm
17 above the elbow, compensation for an additional 15 weeks
18 shall be paid, except where the accidental injury results
19 in the amputation of an arm at the shoulder joint, or so
20 close to shoulder joint that an artificial arm cannot be
21 used, or results in the disarticulation of an arm at the
22 shoulder joint, in which case compensation for an
23 additional 65 weeks shall be paid.

24 11. Foot-155 weeks.

25 12. Leg-200 weeks. Where an accidental injury
26 results in the amputation of a leg below the knee, such
27 injury shall be compensated as loss of a leg. Where an
28 accidental injury results in the amputation of a leg
29 above the knee, compensation for an additional 25 weeks
30 shall be paid, except where the accidental injury results
31 in the amputation of a leg at the hip joint, or so close
32 to the hip joint that an artificial leg cannot be used,
33 or results in the disarticulation of a leg at the hip
34 joint, in which case compensation for an additional 75

1 weeks shall be paid.

2 13. Eye-150 weeks. Where an accidental injury
3 results in the enucleation of an eye, compensation for an
4 additional 10 weeks shall be paid.

5 14. Loss of hearing of one ear-50 weeks; total and
6 permanent loss of hearing of both ears-200 weeks.

7 15. Testicle-50 weeks; both testicles-150 weeks.

8 16. For the permanent partial loss of use of a
9 member or sight of an eye, or hearing of an ear,
10 compensation during that proportion of the number of
11 weeks in the foregoing schedule provided for the loss of
12 such member or sight of an eye, or hearing of an ear,
13 which the partial loss of use thereof bears to the total
14 loss of use of such member, or sight of eye, or hearing
15 of an ear.

16 (a) Loss of hearing for compensation purposes
17 shall be confined to the frequencies of 1,000, 2,000
18 and 3,000 cycles per second. Loss of hearing ability
19 for frequency tones above 3,000 cycles per second
20 are not to be considered as constituting disability
21 for hearing.

22 (b) The percent of hearing loss, for purposes
23 of the determination of compensation claims for
24 occupational deafness, shall be calculated as the
25 average in decibels for the thresholds of hearing
26 for the frequencies of 1,000, 2,000 and 3,000 cycles
27 per second. Pure tone air conduction audiometric
28 instruments, approved by nationally recognized
29 authorities in this field, shall be used for
30 measuring hearing loss. If the losses of hearing
31 average 30 decibels or less in the 3 frequencies,
32 such losses of hearing shall not then constitute any
33 compensable hearing disability. If the losses of
34 hearing average 85 decibels or more in the 3

1 frequencies, then the same shall constitute and be
2 total or 100% compensable hearing loss.

3 (c) In measuring hearing impairment, the
4 lowest measured losses in each of the 3 frequencies
5 shall be added together and divided by 3 to
6 determine the average decibel loss. For every
7 decibel of loss exceeding 30 decibels an allowance
8 of 1.82% shall be made up to the maximum of 100%
9 which is reached at 85 decibels.

10 (d) If a hearing loss is established to have
11 existed on July 1, 1975 by audiometric testing the
12 employer shall not be liable for the previous loss
13 so established nor shall he be liable for any loss
14 for which compensation has been paid or awarded.

15 (e) No consideration shall be given to the
16 question of whether or not the ability of an
17 employee to understand speech is improved by the use
18 of a hearing aid.

19 (f) No claim for loss of hearing due to
20 industrial noise shall be brought against an
21 employer or allowed unless the employee has been
22 exposed for a period of time sufficient to cause
23 permanent impairment to noise levels in excess of
24 the following:

Sound Level DBA	Hours Per Day
Slow Response	
90	8
92	6
95	4
97	3
100	2
102	1-1/2
105	1
110	1/2

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This subparagraph (f) shall not be applied in cases of hearing loss resulting from trauma or explosion.

17. In computing the compensation to be paid to any employee who, before the accident for which he claims compensation, had before that time sustained an injury resulting in the loss by amputation or partial loss by amputation of any member, including hand, arm, thumb or fingers, leg, foot or any toes, such loss or partial loss of any such member shall be deducted from any award made for the subsequent injury. For the permanent loss of use or the permanent partial loss of use of any such member or the partial loss of sight of an eye, for which compensation has been paid, then such loss shall be taken into consideration and deducted from any award for the subsequent injury.

18. The specific case of loss of both hands, both arms, or both feet, or both legs, or both eyes, or of any two thereof, or the permanent and complete loss of the use thereof, constitutes total and permanent disability, to be compensated according to the compensation fixed by paragraph (f) of this Section. These specific cases of total and permanent disability do not exclude other cases.

Any employee who has previously suffered the loss or permanent and complete loss of the use of any of such members, and in a subsequent independent accident loses another or suffers the permanent and complete loss of the use of any one of such members the employer for whom the injured employee is working at the time of the last independent accident is liable to pay compensation only for the loss or permanent and complete loss of the use of the member occasioned by the last independent accident.

19. In a case of specific loss and the subsequent

1 death of such injured employee from other causes than
2 such injury leaving a widow, widower, or dependents
3 surviving before payment or payment in full for such
4 injury, then the amount due for such injury is payable to
5 the widow or widower and, if there be no widow or
6 widower, then to such dependents, in the proportion which
7 such dependency bears to total dependency.

8 Beginning July 1, 1980, and every 6 months thereafter,
9 the Commission shall examine the Second Injury Fund and when,
10 after deducting all advances or loans made to such Fund, the
11 amount therein is \$500,000 then the amount required to be
12 paid by employers pursuant to paragraph (f) of Section 7
13 shall be reduced by one-half. When the Second Injury Fund
14 reaches the sum of \$600,000 then the payments shall cease
15 entirely. However, when the Second Injury Fund has been
16 reduced to \$400,000, payment of one-half of the amounts
17 required by paragraph (f) of Section 7 shall be resumed, in
18 the manner herein provided, and when the Second Injury Fund
19 has been reduced to \$300,000, payment of the full amounts
20 required by paragraph (f) of Section 7 shall be resumed, in
21 the manner herein provided. The Commission shall make the
22 changes in payment effective by general order, and the
23 changes in payment become immediately effective for all cases
24 coming before the Commission thereafter either by settlement
25 agreement or final order, irrespective of the date of the
26 accidental injury.

27 On August 1, 1996 and on February 1 and August 1 of each
28 subsequent year, the Commission shall examine the special
29 fund designated as the "Rate Adjustment Fund" and when, after
30 deducting all advances or loans made to said fund, the amount
31 therein is \$4,000,000, the amount required to be paid by
32 employers pursuant to paragraph (f) of Section 7 shall be
33 reduced by one-half. When the Rate Adjustment Fund reaches
34 the sum of \$5,000,000 the payment therein shall cease

1 entirely. However, when said Rate Adjustment Fund has been
2 reduced to \$3,000,000 the amounts required by paragraph (f)
3 of Section 7 shall be resumed in the manner herein provided.

4 (f) In case of complete disability, which renders the
5 employee wholly and permanently incapable of work, or in the
6 specific case of total and permanent disability as provided
7 in subparagraph 18 of paragraph (e) of this Section,
8 compensation shall be payable at the rate provided in
9 subparagraph 2 of paragraph (b) of this Section for life.

10 An employee entitled to benefits under paragraph (f) of
11 this Section shall also be entitled to receive from the Rate
12 Adjustment Fund provided in paragraph (f) of Section 7 of the
13 supplementary benefits provided in paragraph (g) of this
14 Section 8.

15 If any employee who receives an award under this
16 paragraph afterwards returns to work or is able to do so, and
17 earns or is able to earn as much as before the accident,
18 payments under such award shall cease. If such employee
19 returns to work, or is able to do so, and earns or is able to
20 earn part but not as much as before the accident, such award
21 shall be modified so as to conform to an award under
22 paragraph (d) of this Section. If such award is terminated
23 or reduced under the provisions of this paragraph, such
24 employees have the right at any time within 30 months after
25 the date of such termination or reduction to file petition
26 with the Commission for the purpose of determining whether
27 any disability exists as a result of the original accidental
28 injury and the extent thereof.

29 Disability as enumerated in subdivision 18, paragraph (e)
30 of this Section is considered complete disability.

31 If an employee who had previously incurred loss or the
32 permanent and complete loss of use of one member, through the
33 loss or the permanent and complete loss of the use of one
34 hand, one arm, one foot, one leg, or one eye, incurs

1 permanent and complete disability through the loss or the
2 permanent and complete loss of the use of another member, he
3 shall receive, in addition to the compensation payable by the
4 employer and after such payments have ceased, an amount from
5 the Second Injury Fund provided for in paragraph (f) of
6 Section 7, which, together with the compensation payable from
7 the employer in whose employ he was when the last accidental
8 injury was incurred, will equal the amount payable for
9 permanent and complete disability as provided in this
10 paragraph of this Section.

11 The custodian of the Second Injury Fund provided for in
12 paragraph (f) of Section 7 shall be joined with the employer
13 as a party respondent in the application for adjustment of
14 claim. The application for adjustment of claim shall state
15 briefly and in general terms the approximate time and place
16 and manner of the loss of the first member.

17 In its award the Commission or the Arbitrator shall
18 specifically find the amount the injured employee shall be
19 weekly paid, the number of weeks compensation which shall be
20 paid by the employer, the date upon which payments begin out
21 of the Second Injury Fund provided for in paragraph (f) of
22 Section 7 of this Act, the length of time the weekly payments
23 continue, the date upon which the pension payments commence
24 and the monthly amount of the payments. The Commission shall
25 30 days after the date upon which payments out of the Second
26 Injury Fund have begun as provided in the award, and every
27 month thereafter, prepare and submit to the State Comptroller
28 a voucher for payment for all compensation accrued to that
29 date at the rate fixed by the Commission. The State
30 Comptroller shall draw a warrant to the injured employee
31 along with a receipt to be executed by the injured employee
32 and returned to the Commission. The endorsed warrant and
33 receipt is a full and complete acquittance to the Commission
34 for the payment out of the Second Injury Fund. No other

1 appropriation or warrant is necessary for payment out of the
2 Second Injury Fund. The Second Injury Fund is appropriated
3 for the purpose of making payments according to the terms of
4 the awards.

5 As of July 1, 1980 to July 1, 1982, all claims against
6 and obligations of the Second Injury Fund shall become claims
7 against and obligations of the Rate Adjustment Fund to the
8 extent there is insufficient money in the Second Injury Fund
9 to pay such claims and obligations. In that case, all
10 references to "Second Injury Fund" in this Section shall also
11 include the Rate Adjustment Fund.

12 (g) Every award for permanent total disability entered
13 by the Commission on and after July 1, 1965 under which
14 compensation payments shall become due and payable after the
15 effective date of this amendatory Act, and every award for
16 death benefits or permanent total disability entered by the
17 Commission on and after the effective date of this amendatory
18 Act shall be subject to annual adjustments as to the amount
19 of the compensation rate therein provided. Such adjustments
20 shall first be made on July 15, 1977, and all awards made and
21 entered prior to July 1, 1975 and on July 15 of each year
22 thereafter. In all other cases such adjustment shall be made
23 on July 15 of the second year next following the date of the
24 entry of the award and shall further be made on July 15
25 annually thereafter. If during the intervening period from
26 the date of the entry of the award, or the last periodic
27 adjustment, there shall have been an increase in the State's
28 average weekly wage in covered industries under the
29 Unemployment Insurance Act, the weekly compensation rate
30 shall be proportionately increased by the same percentage as
31 the percentage of increase in the State's average weekly wage
32 in covered industries under the Unemployment Insurance Act.
33 The increase in the compensation rate under this paragraph
34 shall in no event bring the total compensation rate to an

1 amount greater than the prevailing maximum rate. Such
2 increase shall be paid in the same manner as herein provided
3 for payments under the Second Injury Fund to the injured
4 employee, or his dependents, as the case may be, out of the
5 Rate Adjustment Fund provided in paragraph (f) of Section 7
6 of this Act. Payments shall be made at the same intervals as
7 provided in the award or, at the option of the Commission,
8 may be made in quarterly payment on the 15th day of January,
9 April, July and October of each year. In the event of a
10 decrease in such average weekly wage there shall be no change
11 in the then existing compensation rate. The within paragraph
12 shall not apply to cases where there is disputed liability
13 and in which a compromise lump sum settlement between the
14 employer and the injured employee, or his dependents, as the
15 case may be, has been duly approved by the Industrial
16 Commission.

17 Provided, that in cases of awards entered by the
18 Commission for injuries occurring before July 1, 1975, the
19 increases in the compensation rate adjusted under the
20 foregoing provision of this paragraph (g) shall be limited to
21 increases in the State's average weekly wage in covered
22 industries under the Unemployment Insurance Act occurring
23 after July 1, 1975.

24 (h) In case death occurs from any cause before the total
25 compensation to which the employee would have been entitled
26 has been paid, then in case the employee leaves any widow,
27 widower, child, parent (or any grandchild, grandparent or
28 other lineal heir or any collateral heir dependent at the
29 time of the accident upon the earnings of the employee to the
30 extent of 50% or more of total dependency) such compensation
31 shall be paid to the beneficiaries of the deceased employee
32 and distributed as provided in paragraph (g) of Section 7.

33 (h-1) In case an injured employee is under legal
34 disability at the time when any right or privilege accrues to

1 him or her under this Act, a guardian may be appointed
2 pursuant to law, and may, on behalf of such person under
3 legal disability, claim and exercise any such right or
4 privilege with the same effect as if the employee himself or
5 herself had claimed or exercised the right or privilege. No
6 limitations of time provided by this Act run so long as the
7 employee who is under legal disability is without a
8 conservator or guardian.

9 (i) In case the injured employee is under 16 years of
10 age at the time of the accident and is illegally employed,
11 the amount of compensation payable under paragraphs (b), (c),
12 (d), (e) and (f) of this Section is increased 50%.

13 However, where an employer has on file an employment
14 certificate issued pursuant to the Child Labor Law or work
15 permit issued pursuant to the Federal Fair Labor Standards
16 Act, as amended, or a birth certificate properly and duly
17 issued, such certificate, permit or birth certificate is
18 conclusive evidence as to the age of the injured minor
19 employee for the purposes of this Section.

20 Nothing herein contained repeals or amends the provisions
21 of the Child Labor Law relating to the employment of minors
22 under the age of 16 years.

23 (j) 1. In the event the injured employee receives
24 benefits, including medical, surgical or hospital benefits
25 under any group plan covering non-occupational disabilities
26 contributed to wholly or partially by the employer, which
27 benefits should not have been payable if any rights of
28 recovery existed under this Act, then such amounts so paid to
29 the employee from any such group plan as shall be consistent
30 with, and limited to, the provisions of paragraph 2 hereof,
31 shall be credited to or against any compensation payment for
32 temporary total incapacity for work or any medical, surgical
33 or hospital benefits made or to be made under this Act. In
34 such event, the period of time for giving notice of

1 accidental injury and filing application for adjustment of
2 claim does not commence to run until the termination of such
3 payments. This paragraph does not apply to payments made
4 under any group plan which would have been payable
5 irrespective of an accidental injury under this Act. Any
6 employer receiving such credit shall keep such employee safe
7 and harmless from any and all claims or liabilities that may
8 be made against him by reason of having received such
9 payments only to the extent of such credit.

10 Any excess benefits paid to or on behalf of a State
11 employee by the State Employees' Retirement System under
12 Article 14 of the Illinois Pension Code on a death claim or
13 disputed disability claim shall be credited against any
14 payments made or to be made by the State of Illinois to or on
15 behalf of such employee under this Act, except for payments
16 for medical expenses which have already been incurred at the
17 time of the award. The State of Illinois shall directly
18 reimburse the State Employees' Retirement System to the
19 extent of such credit.

20 2. Nothing contained in this Act shall be construed to
21 give the employer or the insurance carrier the right to
22 credit for any benefits or payments received by the employee
23 other than compensation payments provided by this Act, and
24 where the employee receives payments other than compensation
25 payments, whether as full or partial salary, group insurance
26 benefits, bonuses, annuities or any other payments, the
27 employer or insurance carrier shall receive credit for each
28 such payment only to the extent of the compensation that
29 would have been payable during the period covered by such
30 payment.

31 3. The extension of time for the filing of an
32 Application for Adjustment of Claim as provided in paragraph
33 1 above shall not apply to those cases where the time for
34 such filing had expired prior to the date on which payments

1 or benefits enumerated herein have been initiated or resumed.
 2 Provided however that this paragraph 3 shall apply only to
 3 cases wherein the payments or benefits hereinabove enumerated
 4 shall be received after July 1, 1969.

5 (Source: P.A. 89-470, eff. 6-13-96.)

6 (820 ILCS 305/8a new)

7 Sec. 8a. Reports. The Industrial Commission shall report
 8 in writing to the Governor and the Illinois General Assembly
 9 on the 31st day of December, annually, beginning one year
 10 after the effective date of this amendatory Act of the 93rd
 11 General Assembly, the details and results of implementation
 12 of this amendatory Act of the 93rd General Assembly
 13 sufficient to determine its effectiveness in maintaining the
 14 availability of quality health care services for injured
 15 employees and at a reasonable cost to employers.

16 (820 ILCS 305/16) (from Ch. 48, par. 138.16)

17 Sec. 16. The Commission shall make and publish
 18 procedural rules and orders for carrying out the duties
 19 imposed upon it by law and for determining the extent of
 20 disability sustained, which rules and orders shall be deemed
 21 prima facie reasonable and valid.

22 The process and procedure before the Commission shall be
 23 as simple and summary as reasonably may be.

24 The Commission upon application of either party may issue
 25 dedimus potestatem directed to a commissioner, notary public,
 26 justice of the peace or any other officer authorized by law
 27 to administer oaths, to take the depositions of such witness
 28 or witnesses as may be necessary in the judgment of such
 29 applicant. Such dedimus potestatem may issue to any of the
 30 officers aforesaid in any state or territory of the United
 31 States. When the deposition of any witness resident of a
 32 foreign country is desired to be taken, the dedimus shall be

1 directed to and the deposition taken before a consul, vice
2 consul or other authorized representative of the government
3 of the United States of America, whose station is in the
4 country where the witness whose deposition is to be taken
5 resides. In countries where the government of the United
6 States has no consul or other diplomatic representative, then
7 depositions in such case shall be taken through the
8 appropriate judicial authority of that country; or where
9 treaties provide for other methods of taking depositions,
10 then the same may be taken as in such treaties provided. The
11 Commission shall have the power to adopt necessary rules to
12 govern the issue of such dedimus potestatem.

13 The Commission, or any member thereof, or any Arbitrator
14 designated by the Commission shall have the power to
15 administer oaths, subpoena and examine witnesses; to issue
16 subpoenas duces tecum, requiring the production of such
17 books, papers, records and documents as may be evidence of
18 any matter under inquiry and to examine and inspect the same
19 and such places or premises as may relate to the question in
20 dispute. The Commission, or any member thereof, or any
21 Arbitrator designated by the Commission, shall on written
22 request of either party to the dispute, issue subpoenas for
23 the attendance of such witnesses and production of such
24 books, papers, records and documents as shall be designated
25 in the applications, and the parties applying for such
26 subpoena shall advance the officer and witness fees provided
27 for in civil actions pending in circuit courts of this State,
28 except as otherwise provided by Section 20 of this Act.
29 Service of such subpoena shall be made by any sheriff or
30 other person. In case any person refuses to comply with an
31 order of the Commission or subpoenas issued by it or by any
32 member thereof, or any Arbitrator designated by the
33 Commission or to permit an inspection of places or premises,
34 or to produce any books, papers, records or documents, or any

1 witness refuses to testify to any matters regarding which he
2 or she may be lawfully interrogated, the Circuit Court of the
3 county in which the hearing or matter is pending, on
4 application of any member of the Commission or any Arbitrator
5 designated by the Commission, shall compel obedience by
6 attachment proceedings, as for contempt, as in a case of
7 disobedience of the requirements of a subpoena from such
8 court on a refusal to testify therein.

9 The records kept by a hospital, certified to as true and
10 correct by the superintendent or other officer in charge,
11 showing the medical and surgical treatment given an injured
12 employee in such hospital, shall be admissible without any
13 further proof as evidence of the medical and surgical matters
14 stated therein, but shall not be conclusive proof of such
15 matters.

16 The Commission at its expense shall provide an official
17 court reporter to take the testimony and record of
18 proceedings at the hearings before an Arbitrator or the
19 Commission, who shall furnish a transcript of such testimony
20 or proceedings to either party requesting it, upon payment
21 therefor at the rate of \$1.00 per page for the original and
22 35 cents per page for each copy of such transcript. Payment
23 for photostatic copies of exhibits shall be extra. If the
24 Commission has determined, as provided in Section 20 of this
25 Act, that the employee is a poor person, a transcript of such
26 testimony and proceedings, including photostatic copies of
27 exhibits, shall be furnished to such employee at the
28 Commission's expense.

29 In accordance with the provisions of subsection (a) of
30 Section 8 of this Act and subdivision (a)(3) of Section 8 of
31 this Act, the Commission shall have the power to determine
32 the reasonableness and fix the amount of any fee of
33 compensation charged by any person, including attorneys,
34 physicians, surgeons and hospitals, for any service performed

1 in connection with this Act, or for which payment is to be
2 made under this Act or rendered in securing any right under
3 this Act.

4 Whenever the Commission shall find that the employer, his
5 or her agent, service company or insurance carrier has been
6 guilty of delay or unfairness towards an employee in the
7 adjustment, settlement or payment of benefits due such
8 employee within the purview of the provisions of paragraph
9 (c) of Section 4 of this Act; or has been guilty of
10 unreasonable or vexatious delay, intentional under-payment of
11 compensation benefits, or has engaged in frivolous defenses
12 which do not present a real controversy, within the purview
13 of the provisions of paragraph (k) of Section 19 of this Act,
14 the Commission may assess all or any part of the attorney's
15 fees and costs against such employer and his or her insurance
16 carrier.

17 (Source: P.A. 86-998.)

18 (820 ILCS 305/16a) (from Ch. 48, par. 138.16a)

19 Sec. 16a. (A) In the establishment or approval of
20 attorney's fees in relation to claims brought under this Act,
21 the Commission shall be guided by the provisions of this
22 Section and by the legislative intent, hereby declared, to
23 encourage settlement and prompt administrative handling of
24 such claims and thereby reduce expenses to claimants for
25 compensation under this Act.

26 (B) With respect to any and all proceedings in
27 connection with any initial or original claim under this Act,
28 no claim of any attorney for services rendered in connection
29 with the securing of compensation for an employee or his
30 dependents and also resolving any disputed health care
31 provider charges and medical expenses, whether secured by
32 agreement, order, award or a judgment in any court shall
33 exceed 20% of the amount of compensation recovered and paid,

1 unless further fees shall be allowed to the attorney upon a
2 hearing by the Commission fixing fees, and subject to the
3 other provisions of this Section. However, except as
4 hereinafter provided in this Section, in death cases, total
5 disability cases and partial disability cases, the amount of
6 an attorney's fees shall not exceed 20% of the sum which
7 would be due under this Act for 364 weeks of permanent total
8 disability based upon the employee's average gross weekly
9 wage prior to the date of the accident and subject to the
10 maximum weekly benefits provided in this Act unless further
11 fees shall be allowed to the attorney upon a hearing by the
12 Commission fixing fees.

13 (B-5) With respect to any and all proceedings in
14 connection with any disputed health care provider charges and
15 medical expenses associated with any initial or original
16 claim under this Act, no claim of any attorney for services
17 rendered in connection with the securing of compensation for
18 any health care provider, whether secured by agreement,
19 order, award, or a judgment in any court, shall exceed 20% of
20 the amount of compensation recovered and paid to any health
21 care provider. These fees shall be fixed pursuant to a
22 written contract in accordance with subsection (C) of this
23 Section.

24 In any proceeding including disputed health care
25 payments, in whole or in part, all health care providers
26 shall be given 30 calendar days notice by the employer prior
27 to a hearing to effect any award or settlement to submit all
28 outstanding bills. Any award or settlement payments for a
29 contested claim shall be made to the attorney involved in the
30 name of the attorney and health care providers. The attorney
31 shall disburse the funds to the health care providers
32 involved in accordance with the award or settlement. The
33 amount of health care provider payments shall be the usual
34 and customary charges under subsection 8(a), except when the

1 amount of the award or settlement of a contested claim is
2 insufficient to compensate all health care providers usual
3 and customary charges. In these situations, all physician
4 payments shall not exceed 30% of the award or settlement, all
5 hospital payments (in-patient and out-patient) shall not
6 exceed 30% of the award or settlement, and all other health
7 care providers payments shall not exceed 20% of the award or
8 settlement. All health care providers shall share
9 proportionate amounts within their respective statutory
10 limitations as full and final payment for all sums due and
11 owing. In addition, usual and customary charges shall be
12 satisfied to extent possible for all health care providers
13 from amount unused within the statutory limitations on a
14 proportionate basis.

15 (C) All attorneys' fees in connection with the initial
16 or original claim for compensation shall be fixed pursuant to
17 a written contract on forms prescribed by the Commission
18 between the attorney and the employee or his dependents, and
19 every attorney, whether the disposition of the original claim
20 is by agreement, settlement, award, judgment or otherwise,
21 shall file his contract with the Chairman of the Commission
22 who shall approve the contract only if it is in accordance
23 with all provisions of this Section.

24 (D) No attorneys' fees shall be charged with respect to
25 compensation for undisputed medical expenses.

26 (E) No attorneys' fees shall be charged in connection
27 with any temporary total disability compensation unless the
28 payment of such compensation in a timely manner or in the
29 proper amount is refused, or unless such compensation is
30 terminated by the employer and the payment of such
31 compensation is obtained or reinstated by the efforts of the
32 attorney, whether by agreement, settlement, award or
33 judgment.

34 (F) In the following cases in which there is no dispute

1 between the parties as to the liability of the respondent to
2 pay compensation in a timely manner or in the proper amount
3 and there is no dispute that the accident has resulted in:

- 4 (1) the death of the employee; or
- 5 (2) a statutory permanent disability; or
- 6 (3) the amputation of a finger, toe, or member; or
- 7 (4) the removal of a testicle; or
- 8 (5) the enucleation of or 100% loss of vision of an eye;

9 the legal fees, if any, for services rendered are to be fixed
10 by the Industrial Commission at a nominal amount, not
11 exceeding \$100.

12 (G) In the following cases in which there is no dispute
13 between the parties as to the liability of the respondent to
14 pay compensation and there is no dispute that the accident
15 has resulted in:

- 16 (1) a fracture of one or more vertebrae; or
- 17 (2) a skull fracture; or
- 18 (3) a fracture of one or more spinous or transverse
19 processes; or
- 20 (4) a fracture of one or more facial bones; or
- 21 (5) the removal of a kidney, spleen or lung;

22 the legal fees, if any, for services rendered are to be fixed
23 by the Industrial Commission at a nominal amount, not
24 exceeding \$100, provided that the employee is awarded the
25 minimum amount for the above injuries as specified in Section
26 8(d)2.

27 (H) With regard to any claim where the amount to be paid
28 for compensation does not exceed the written offer made to
29 the claimant or claimants by the employer or his agent prior
30 to representation by an attorney, no fees shall be paid to
31 any such attorney.

32 (I) All attorneys' fees for representation of an
33 employee or his dependents shall be only recoverable from
34 compensation actually paid to such employee or dependents.

1 (J) Any and all disputes regarding attorneys' fees,
2 whether such disputes relate to which one or more attorneys
3 represents the claimant or claimants or is entitled to the
4 attorneys' fees, or a division of attorneys' fees where the
5 claimant or claimants are or have been represented by more
6 than one attorney, or any other disputes concerning
7 attorneys' fees or contracts for attorneys' fees, shall be
8 heard and determined by the Commission after reasonable
9 notice to all interested parties and attorneys.

10 (K) After reasonable notice and hearing before the
11 Commission, any attorney found to be in violation of any
12 provision of this Section shall be required to make
13 restitution of any excess fees charged plus interest at a
14 reasonable rate as determined by the Commission.

15 (Source: P.A. 84-1438.)

16 Section 15. The Workers' Occupational Diseases Act is
17 amended by changing Sections 16 and 16a and adding Section
18 16b as follows:

19 (820 ILCS 310/16) (from Ch. 48, par. 172.51)

20 Sec. 16. The Commission shall make and publish procedural
21 rules and orders for carrying out the duties imposed upon it
22 by law, which rules and orders shall be deemed prima facie
23 reasonable and valid.

24 The process and procedure before the Commission shall be
25 as simple and summary as reasonably may be.

26 The Commission upon application of either party may issue
27 a dedimus potestatem directed to a commissioner, notary
28 public, magistrate, justice of the peace or any other officer
29 authorized by law to administer oaths, to take the
30 depositions of such witness or witnesses as may be necessary
31 in the judgment of such applicant. Such dedimus potestatem
32 may issue to any of the officers aforesaid in any state or

1 territory of the United States. When the deposition of any
2 witness resident of a foreign country is desired to be taken,
3 the dedimus shall be directed to and the deposition taken
4 before a consul, vice consul or other authorized
5 representative of the government of the United States of
6 America, whose station is in the country where the witness
7 whose deposition is to be taken resides. In countries where
8 the government of the United States has no consul or other
9 diplomatic representative, then depositions in such case
10 shall be taken through the appropriate judicial authority of
11 that country; or where treaties provide for other methods of
12 taking depositions, then the same may be taken as in such
13 treaties provided. The Commission shall have the power to
14 adopt necessary rules to govern the issue of such dedimus
15 potestatem.

16 The Commission, or any member thereof, or any Arbitrator
17 designated by said Commission shall have the power to
18 administer oaths, subpoena and examine witnesses; to issue
19 subpoenas duces tecum, requiring the production of such
20 books, papers, records and documents as may be evidence of
21 any matter under inquiry and to examine and inspect the same
22 and such places or premises as may relate to the question in
23 dispute. Said Commission or any member thereof, or any
24 Arbitrator designated by said Commission, shall on written
25 request of either party to the dispute, issue subpoenas for
26 the attendance of such witnesses and production of such
27 books, papers, records and documents as shall be designated
28 in said applications, providing however, that the parties
29 applying for such subpoena shall advance the officer and
30 witness fees provided for in suits pending in the Circuit
31 Court. Service of such subpoena shall be made by any sheriff
32 or other person. In case any person refuses to comply with
33 an order of the Commission or subpoenas issued by it or by
34 any member thereof, or any Arbitrator designated by said

1 Commission or to permit an inspection of places or premises,
2 or to produce any books, papers, records or documents, or any
3 witness refuses to testify to any matters regarding which he
4 may be lawfully interrogated, the Circuit Court for the
5 county in which said hearing or matter is pending, on
6 application of any member of the Commission or any Arbitrator
7 designated by the Commission, shall compel obedience by
8 attachment proceedings, as for contempt, as in a case of
9 disobedience of the requirements of a subpoena from such
10 court on a refusal to testify therein.

11 The records kept by a hospital, certified to as true and
12 correct by the superintendent or other officer in charge,
13 showing the medical and surgical treatment given an injured
14 employee in such hospital, shall be admissible without any
15 further proof as evidence of the medical and surgical matters
16 stated therein, but shall not be conclusive proof of such
17 matters.

18 The Commission at its expense shall provide an official
19 court reporter to take the testimony and record of
20 proceedings at the hearings before an Arbitrator or the
21 Commission, who shall furnish a transcript of such testimony
22 or proceedings to either party requesting it, upon payment to
23 him therefor at the rate of \$1.00 per page for the original
24 and 35 cents per page for each copy of such transcript.
25 Payment for photostatic copies of exhibits shall be extra.
26 If the Commission has determined, as provided in Section 19.5
27 of this Act, that the employee is a poor person, a transcript
28 of such testimony and proceedings, including photostatic
29 copies of exhibits, shall be furnished to such employee at
30 the Commission's expense.

31 In accordance with subsection (a) of Section 8 of the
32 Workers' Compensation Act and subdivision (a)(3) of Section 8
33 of the Workers' Compensation Act, the Commission shall have
34 the power to determine the reasonableness and fix the amount

1 of any fee of compensation charged by any person, including
2 attorneys, physicians, surgeons and hospitals, for any
3 service performed in connection with this Act, or for which
4 payment is to be made under this Act or rendered in securing
5 any right under this Act.

6 Whenever the Commission shall find that the employer, his
7 agent, service company or insurance carrier has been guilty
8 of delay or unfairness towards an employee in the adjustment,
9 settlement or payment of benefits due such employee or has
10 been guilty of unreasonable or vexatious delay, intentional
11 under-payment of compensation benefits, or has engaged in
12 frivolous defenses which do not present a real controversy,
13 the Commission may assess all or any part of the attorney's
14 fees and costs against such employer and his insurance
15 carrier.

16 (Source: P.A. 86-998; 87-895.)

17 (820 ILCS 310/16a) (from Ch. 48, par. 172.51a)

18 Sec. 16a. (A) In the establishment or approval of
19 attorney's fees in relation to claims brought under this Act,
20 the Commission shall be guided by the provisions of this
21 Section and by the legislative intent, hereby declared, to
22 encourage settlement and prompt administrative handling of
23 such claims and thereby reduce expenses to claimants for
24 compensation under this Act.

25 (B) With respect to any and all proceedings in
26 connection with any initial or original claim under this Act,
27 no claim of any attorney for services rendered in connection
28 with the securing of compensation for an employee or his
29 dependents and also resolving any disputed health care
30 provider charges and medical expenses, whether secured by
31 agreement, order, award or a judgment in any court shall
32 exceed 20% of the amount of compensation recovered and paid,
33 unless further fees shall be allowed to the attorney upon a

1 hearing by the Commission fixing fees and subject to the
2 other provisions of this Section. However, except as
3 hereinafter provided in this Section, in death cases, total
4 disability cases and partial disability cases, the amount of
5 an attorney's fees shall not exceed 20% of the sum which
6 would be due under the Workers' Compensation Act for 364
7 weeks of permanent total disability based upon the employee's
8 average gross weekly wage prior to the date of the accident
9 and subject to the maximum weekly benefits provided in this
10 Act unless further fees shall be allowed to the attorney upon
11 a hearing by the Commission fixing fees.

12 (B-5) With respect to any and all proceedings in
13 connection with any disputed health care provider charges and
14 medical expenses associated with any initial or original
15 claim under this Act, no claim of any attorney for services
16 rendered in connection with the securing of compensation for
17 any health care provider, whether secured by agreement,
18 order, award, or a judgment in any court, shall exceed 20% of
19 the amount of compensation recovered and paid to any health
20 care provider. These fees shall be fixed pursuant to written
21 contract in accordance with subsection (C) of this Section.

22 In any proceeding including disputed health care
23 payments, in whole or in part, all health care providers
24 shall be given 30 calendar days notice by the employer prior
25 to a hearing to effect any award or settlement to submit all
26 outstanding bills. Any award or settlement payments for a
27 contested claim shall be made to the attorney involved in the
28 name of the attorney and health care providers. The attorney
29 shall disburse the funds to the health care providers
30 involved in accordance with the award or settlement. The
31 amount of health care provider payments shall be the usual
32 and customary charges under subsection 8(a), except when the
33 amount of the award or settlement of a contested claim is
34 insufficient to compensate all health care providers usual

1 and customary charges. In these situations, all physician
2 payments shall not exceed 30% of the award or settlement, all
3 hospital payments (in-patient and out-patient) shall not
4 exceed 30% of the award or settlement, and all other health
5 care providers payments shall not exceed 20% of the award or
6 settlement. All health care providers shall share
7 proportionate amounts within their respective statutory
8 limitations as full and final payment for all sums due and
9 owing. In addition, usual and customary charges shall be
10 satisfied to extent possible for all health care providers
11 from amount unused within the statutory limitations on a
12 proportionate basis.

13 (C) All attorneys' fees in connection with the initial
14 or original claim for compensation shall be fixed pursuant to
15 a written contract on forms prescribed by the Commission
16 between the attorney and the employee or his dependents, and
17 every attorney, whether the disposition of the original claim
18 is by agreement, settlement, award, judgment or otherwise,
19 shall file his contract with the Chairman of the Commission
20 who shall approve the contract only if it is in accordance
21 with all provisions of this Section.

22 (D) No attorneys' fees shall be charged with respect to
23 compensation for undisputed medical expenses.

24 (E) No attorneys' fees shall be charged in connection
25 with any temporary total disability compensation unless the
26 payment of such compensation in a timely manner or in the
27 proper amount is refused, or unless such compensation is
28 terminated by the employer and the payment of such
29 compensation is obtained or reinstated by the efforts of the
30 attorney, whether by agreement, settlement, award or
31 judgment.

32 (F) With regard to any claim where the amount to be paid
33 for compensation does not exceed the written offer made to
34 the claimant or claimants by the employer or his agent prior

1 to representation by an attorney, no fees shall be paid to
2 any such attorney.

3 (G) All attorneys' fees for representation of an
4 employee or his dependents shall be only recoverable from
5 compensation actually paid to such employee or dependents.

6 (H) Any and all disputes regarding attorneys' fees,
7 whether such disputes relate to which one or more attorneys
8 represents the claimant or claimants or is entitled to the
9 attorneys' fees, or a division of attorneys' fees where the
10 claimant or claimants are or have been represented by more
11 than one attorney, or any other disputes concerning
12 attorneys' fees or contracts for attorneys' fees, shall be
13 heard and determined by the Commission after reasonable
14 notice to all interested parties and attorneys.

15 (I) After reasonable notice and hearing before the
16 Commission, any attorney found to be in violation of any
17 provision of this Section shall be required to make
18 restitution of any excess fees charged, plus interest at a
19 reasonable rate as determined by the Commission.

20 (Source: P.A. 81-1482.)

21 (820 ILCS 310/16b new)

22 Sec. 16b. Reports. The Industrial Commission shall report
23 in writing to the Governor and the Illinois General Assembly
24 on the 31st day of December, annually, beginning one year
25 after the effective date of this amendatory Act of the 93rd
26 General Assembly, the details and results of implementation
27 of this amendatory Act of the 93rd General Assembly
28 sufficient to determine its effectiveness in maintaining the
29 availability of quality health care services for injured
30 employees and at a reasonable cost to employers.

31 Section 95. Severability. The provisions of this Act are
32 severable under Section 1.31 of the Statute on Statutes.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.